

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 16, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JONATHAN THOMAS BAILEY,

Plaintiff,

v.

UNITED STATES OF AMERICA, et
al.,

Defendants.

No. 2:23-CV-00136-ACE

ORDER DISMISSING CASE
WITHOUT PREJUDICE

BEFORE THE COURT is Plaintiff's Complaint filed on May 5, 2023.
ECF No. 1. Plaintiff appears *pro se*.

On July 31, 2023, the Court reviewed Plaintiff's Complaint and determined Plaintiff failed to clearly demonstrate the nature of his claims or a nexus between a defendant's conduct and an alleged violation. *See* Fed. R. Civ. P. 8(a)(2) (a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief."). The Court thus found that Plaintiff had failed to state a claim upon which relief may be granted. ECF No. 14.

As stated by the Court in the July 31, 2023 order, a federal court may dismiss a case *sua sponte*, pursuant to Federal Rule of Civil Procedure 12(b)(6), when it is clear a plaintiff has not stated a claim upon which relief may be granted. *See Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12 (b)(6). Such a dismissal may be made without notice where the claimant cannot possibly win relief."); *see also Mallard v. United States Dist. Court*, 490 U.S. 296, 307-308 (1989) (there is

1 little doubt a federal court would have the power to dismiss a frivolous or
2 malicious complaint *sua sponte*, even in the absence of an express statutory
3 provision).

4 Although the Court provided Plaintiff an opportunity to cure noted defects
5 by amending his Complaint to state what claims he is attempting to bring, the
6 factual allegations supporting those claims, and the connection between the
7 defendants' conduct and an alleged violation, ECF No. 14 at 2-3, Plaintiff has filed
8 nothing further in this action.¹

9 Given that Plaintiff's initial Complaint fails to state a claim upon which
10 relief may be granted and that Plaintiff has failed to timely file an Amended
11 Complaint to show he is entitled to relief, **IT IS HEREBY ORDERED** Plaintiff's
12 Complaint, ECF No. 1, is **DISMISSED without prejudice**.

13 **IT IS SO ORDERED.** The District Court Executive is directed to file this
14 Order, provide a copy to Plaintiff, and **CLOSE THE FILE**.

15 DATED August 16, 2023.



Alexander C. Ekstrom

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE

27 ¹Plaintiff was given 14 days, until August 14, 2023, to file an Amended
28 Complaint. ECF No. 14 at 3.